

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

KODY JACOB LAMB,

Petitioner,

v.

SHERIFF,

Respondent.

CAUSE NO.: 3:18-CV-511-RLM-MGG

OPINION AND ORDER

Kody Jacob Lamb, a prisoner without a lawyer, filed a letter objecting to his incarceration at the Pulaski County Jail on the basis that he has completed his sentence. “[W]hen a state prisoner is challenging the very fact or duration of his physical imprisonment, and the relief he seeks is a determination that he is entitled to immediate release or a speedier release from that imprisonment, his sole federal remedy is a writ of habeas corpus.” Preiser v. Rodriquez, 411 U.S. 475, 500 (1973). A habeas corpus petition challenging the execution of an inmate’s sentence is cognizable under 28 U.S.C. § 2241. See Valona v. United States, 138 F.3d 693, 694 (7th Cir. 1998). Therefore, the court construes the letter as a petition seeking habeas relief under 28 U.S.C. § 2241.

Federal courts may require state prisoners seeking relief under Section 2241 to exhaust their state court remedies. United States v. Castor, 937 F.2d 293, 296–97 (7th Cir. 1991); Baldwin v. Lewis, 442 F.2d 29, 31 (7th Cir. 1971). Indiana courts allow prisoners to challenge sentence calculations by filing a motion to correct an erroneous sentence. Neff v. State, 888 N.E.2d 1249, 1250

(Ind. 2008). Therefore, in the interest of comity, the court will consider Mr. Lamb's petition only if he shows that he has finished litigating this type of motion in state court. Because Mr. Lamb has made no such showing, the court denies his petition.

Mr. Lamb may file an amended petition, but he should only do if has finished litigating his claim in State court. If Mr. Lamb chooses to file an amended petition, he must put the cause number of this case which is on the first page of this order, and he should restate his claims from the initial petition. He should also state whether he filed a motion to correct an erroneous sentence in state court; how the state court ruled; whether he filed an appeal; and what the result of the appeal was. He may also attach any relevant state court documents as exhibits.

As a final matter, Mr. Lamb hasn't resolved his filing fee status. To do so, he must either pay the \$5.00 filing fee or submit a motion to proceed in forma pauperis with his trust fund ledgers attached.

For these reasons, the court:

- (1) DENIES the petition (ECF 1);
- (2) DIRECTS the clerk to send Kody Jacob Lamb a blank prisoner in forma pauperis motion; and
- (3) GRANTS Mr. Lamb until August 15, 2018, to file an amended petition and to resolve his filing fee status.

If Mr. Lamb doesn't respond by that deadline, this case will be dismissed without further notice.

SO ORDERED on July 16, 2018

/s/ Robert L. Miller, Jr.
JUDGE
UNITED STATES DISTRICT COURT